

# COUNTY OF YORK

## MEMORANDUM

**DATE:** January 4, 2006 (BOS Mtg. 1/17/06)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator

**SUBJECT:** Application No. UP-695-06, Miles C. Burcher  
Extension of UP-626-03



### **ISSUE**

This application requests a minor modification of a Special Use Permit, pursuant to Section 24.1-115(d)(2) of the York County Zoning Ordinance, to authorize an extension of the expiration date for a use permit authorizing a detached accessory apartment located at 709 Patricks Creek Road (Route 616) and further identified as Assessor's Parcel No. 30J-1-1.

### **BACKGROUND**

On January 20, 2004, the Board approved an application for a Special Use Permit to authorize an 800-square foot accessory apartment in a detached building on the noted property. Pursuant to Section 24.1-115(c)(1) of the Zoning Ordinance, use permits automatically expire two years after adoption if the special use has not been established. A use is considered established if all necessary foundation work has been completed and construction work is continuously and diligently pursued under a valid building permit. The existing building that was to be renovated for the accessory apartment was damaged by Hurricane Isabel, and building permit issues relative to reconstruction of structures in the 100-year floodplain delayed the project such that the applicant was not able to commence construction within two years of the date of use permit approval. The applicant has therefore requested a two-year extension of the use permit expiration date.

Section 24.1-115(d)(2) of the Zoning Ordinance states that the Board may approve minor modifications to the conditions of an approved and currently valid special use without a public hearing provided that the following four criteria are met:

- There will be less than a 25% increase in either total lot coverage or floor area;
- There will be no detrimental impact on any adjacent property caused by significant change in the appearance or the use of the property or any other contributing factor;
- Nothing in the currently valid special use permit precludes or limits such expansion or enlargement;
- The proposal is consistent with the Zoning Ordinance and the Comprehensive Plan.

This request meets these criteria and is therefore being processed as a minor amendment. Such amendments do not require prior review by the Planning Commission.

## **CONSIDERATIONS/CONCLUSIONS**

The approved accessory apartment was to have been located in an existing detached accessory building located on a 0.93-acre parcel. Unfortunately, the building was damaged beyond repair during Hurricane Isabel. The Zoning Administrator has determined that the building can be replaced under the terms of the resolution approving the original use permit (Resolution R04-2, copy attached) provided that the new building is located on the same footprint and living space does not exceed 800 square feet.

## **RECOMMENDATION**

If this time extension is denied, the applicant will be required to apply for a new use permit, including public hearings and Planning Commission review, in order to construct the accessory apartment. Since the factors contributing to the approval of the original use permit application (floor area limits, building reconstruction in the 100-year floodplain) have not changed, I do not believe this will accomplish anything other than place an unnecessary burden on the applicant. The request for an extension appears reasonable, and I recommend that it be approved. This may be accomplished through the adoption of proposed Resolution R06-8.

Carter/3337/AMP

### Attachments

- Vicinity Map
- Applicant's Sketch Plan
- Approved Resolution R04-2
- Proposed Resolution R06-8